

ESTTA Tracking number: **ESTTA216137**

Filing date: **06/06/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Mars Incorporated
Granted to Date of previous extension	06/07/2008
Address	6885 Elm Street McLean, VA 22101-3883 UNITED STATES
Correspondence information	Mars Incorporated 6885 Elm Street McLean, VA 22101-3883 UNITED STATES panko.ross@arentfox.com, carvalho.cristina@arentfox.com, booth.heather@arentfox.com Phone:(202) 857-6090

Applicant Information

Application No	77314705	Publication date	04/08/2008
Opposition Filing Date	06/06/2008	Opposition Period Ends	06/07/2008
Applicant	Najaro Inc. 20261 Paseo del Prado Walnut, CA 91789 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Tea; Beverages made of tea; Tea-based beverages with fruit flavoring

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1846869	Application Date	07/27/1992
Registration Date	07/26/1994	Foreign Priority Date	NONE

Word Mark	FLAVIA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: tea, cocoa, sugar, rice, pasta, hot chocolate; mixtures of coffee, and coffee extracts used as flavoring; chicory and chicory mixtures, all for use as substitutes for coffee

U.S. Registration No.	2168427	Application Date	10/08/1996
Registration Date	06/23/1998	Foreign Priority Date	NONE
Word Mark	FLAVIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1995/09/00 First Use In Commerce: 1995/09/00 electric coffee, tea, and hot chocolate makers for commercial use		

U.S. Registration No.	2584957	Application Date	03/20/2001
Registration Date	06/25/2002	Foreign Priority Date	NONE
Word Mark	FLAVIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 Tea		

U.S. Registration No.	3113909	Application Date	01/06/2005
Registration Date	07/11/2006	Foreign Priority Date	NONE
Word Mark	FLAVIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1998/00/00 First Use In Commerce: 1998/00/00 coffee, tea, hot chocolate		

U.S. Registration No.	3178667	Application Date	03/17/2005
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	FLAVIA FUSION		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 011. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Electric coffee, tea, and hot chocolate makers		
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U.S. Application No.	77036640	Application Date	11/03/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLAVIA PEPPERMINT COOL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: Tea		

U.S. Application No.	77246316	Application Date	08/03/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLAVIA CREATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: electric coffee, tea and hot chocolate makers		

U.S. Application No.	77483668	Application Date	05/27/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLAVIA THINK FRESH!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: electric coffee, tea and hot chocolate makers Class 021. First use: cups Class 030. First use: coffee, tea and hot chocolate		

U.S. Application No.		Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services			

Attachments	76227125#TMSN.gif (1 page)(bytes) 78543428#TMSN.jpeg (1 page)(bytes) 78977583#TMSN.jpeg (1 page)(bytes) 77036640#TMSN.jpeg (1 page)(bytes) 77246316#TMSN.jpeg (1 page)(bytes) 77483668#TMSN.jpeg (1 page)(bytes) Notice of Opposition - FLAVTEA.pdf (31 pages)(883583 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ross Q. Panko/
Name	Ross Q. Panko
Date	06/06/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 77/314,705 for the mark FLAVTEA, filed October 26, 2007 and published April 8, 2008

MARS, INCORPORATED,)	
)	
Opposer,)	Serial No. 77/314,705
)	
v.)	Opposition No.
)	
NAJARO INC.,)	
)	
Applicant.)	
)	



NOTICE OF OPPOSITION

Mars, Incorporated (“Opposer”), a corporation duly organized and existing under the laws of the State of Delaware, having a place of business at 6885 Elm Street, McLean, Virginia 22101, believes that it will be damaged by the registration of the mark shown in Application Serial No. 77/314,705 and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. § 1063.


As grounds for opposition, Opposer alleges the following:

1. Opposer is the owner of all right, title, and interest in and to a family of famous marks containing or comprised of the word FLAVIA (collectively, the “FLAVIA Marks”), which Opposer uses in connection with beverages and related products, including tea, coffee, hot chocolate and electric coffee, tea and hot chocolate makers.

2. Opposer’s rights in the FLAVIA Marks have been recognized by the United States Patent and Trademark Office, which has issued numerous federal registrations to Opposer for its FLAVIA Marks, including the following:

Trademark	Registration No.	Date of Registration	Class	Goods
FLAVIA	1,846,869	7/26/1994	30	Tea, cocoa, hot chocolate, mixtures of coffee, and coffee extracts used as flavoring
FLAVIA	2,168,427	6/23/1998	11	Electric coffee, tea and hot chocolate makers for commercial use
FLAVIA & Design 	2,584,957	6/25/2002	30	Tea
FLAVIA Device 	3,113,909	7/11/2006	30	Coffee, tea, hot chocolate
FLAVIA FUSION	3,178,667	11/28/2006	11	Electric coffee, tea and hot chocolate makers

3. Opposer also owns the following pending applications for the FLAVIA Marks:

Trademark	Application Serial No.	Filing Date	Class(es)	Goods
FLAVIA PEPPERMINT COOL	77/036,640 (allowed)	11/3/2006	30	Tea
FLAVIA CREATION	77/246,316 (allowed)	8/3/2007	11	Electric coffee, tea and hot chocolate makers
FLAVIA THINK FRESH!	77/483,668	5/27/2008	11, 21, 30	Electric coffee, tea and hot chocolate makers; Cups; Coffee, tea and hot chocolate
FLAVIA Device 	77/489,460	6/3/2008	11, 21, 30	Electric coffee, tea and hot chocolate makers; Cups; Coffee, tea and hot

			chocolate
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4. Copies of the registration certificates for Opposer's registrations and the application printouts from the PTO's TARR database for Opposer's applications are attached as Exhibit A. Opposer's registrations are valid and subsisting, and Registration Nos. 1,846,869 and 2,168,427 are incontestable. These registrations provide *prima facie* evidence, and the incontestable registrations provide conclusive evidence, of Opposer's ownership of the FLAVIA Marks, of the validity of the marks, and of Opposer's exclusive right to use the marks in commerce.

5. Opposer or its predecessor-in-interest adopted and first used marks containing or comprised of FLAVIA at least as early as 1995, which is long prior to the filing date of Applicant's application and prior to any use by Applicant of the mark it seeks to register.

6. The FLAVIA Marks have been used in interstate commerce continuously since 1995.

7. Opposer has extensively used, advertised, and promoted in interstate commerce the FLAVIA Marks in connection with beverages and related products, including, tea, coffee, hot chocolate and electric coffee, tea and hot chocolate makers.

8. As a result of such extensive use, advertising, and promotion, the FLAVIA Marks have become well-known and famous as distinctive indicators of the origin of Opposer's goods, and the marks have become extremely valuable symbols of Opposer's goodwill.

9. Notwithstanding Opposer's prior established rights in the FLAVIA Marks, Applicant filed an intent-to-use application with the United States Patent and Trademark on October 26, 2007 for the mark FLAVTEA (Ser. No. 77/314,705) for the following goods:

"Tea; Beverages made of tea; Tea-based beverages with fruit flavoring" in Class 30.

10. Upon information and belief, Applicant knew or had reason to know of Opposer's prior rights in the FLAVIA Marks when Applicant filed its application.

Likelihood of Confusion - §2(d)

11. The mark that Applicant seeks to register so closely resembles the FLAVIA Marks that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation symbolized by the FLAVIA Marks.

12. Applicant's goods are so closely related to Opposer's goods that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's goods are those of Opposer, or that Applicant is in some way connected or affiliated with, or approved or sponsored by, Opposer, all to Opposer's irreparable damage.

13. Likelihood of confusion is enhanced by the fame of Opposer's FLAVIA Marks and by the fact that consumers associate these marks with goods and services sold, approved, or endorsed by Opposer.

14. Likelihood of confusion is enhanced by the fact that purchasers of Applicant's goods are prospective purchasers of Opposer's goods and services, and vice versa.

Deception/False Suggestion of Connection - §2(a)

15. Applicant's mark so closely resembles the FLAVIA Marks that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that the mark misdescribes the nature or origin of the goods, purchasers are likely to believe that the misdescription actually describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions whether to acquire Applicant's goods.

16. Applicant's alleged mark so closely resembles Opposer's FLAVIA Marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act

because Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that goods offered under Applicant's alleged mark are affiliated or connected with Opposer.

17. Applicant's mark is deceptive in that it falsely suggests a connection with or approval by Opposer.

Dilution - §43(c)

18. Use or registration of Applicant's mark constitutes trademark dilution by blurring in violation of the Trademark Dilution Revision Act of 2006, 15 U.S.C. §1125(c).

19. Opposer's FLAVIA Marks are widely recognized by the general consuming public of the United States as a designation of the source of Opposer's goods and services.

20. Opposer's FLAVIA Marks have been extensively used and promoted throughout the United States for many years.

21. A substantial amount of goods and services have been sold under Opposer's FLAVIA Marks throughout the United States.

22. The extent of actual recognition of Opposer's FLAVIA Marks is substantial.

23. Opposer's FLAVIA Marks are registered on the Principal Register.

24. Because of the extensive use of Opposer's FLAVIA Marks, the substantial sales under the FLAVIA Marks, the actual recognition of the FLAVIA Marks by the consuming public, and the number of U.S. registrations for the FLAVIA Marks on the Principal Register, Opposer's FLAVIA Marks are famous.

25. Applicant has filed for, and is making or intends to make unauthorized use in commerce of, a mark that is nearly identical to one or more of the FLAVIA Marks.

26. Applicant's use began, or will begin, long after Opposer's FLAVIA Marks became famous.

27. Applicant's conduct is likely to cause an association arising from the similarity between Applicant's mark and Opposer's FLAVIA Marks that impairs the distinctiveness of Opposer's FLAVIA Marks.

28. Applicant's mark and Opposer's FLAVIA Marks are highly similar and nearly identical.

29. Opposer's FLAVIA Marks are highly distinctive.

30. Applicant's use or registration of its mark will deprive Opposer of the ability to protect its reputation, persona, and goodwill.

31. Applicant's use or registration of its mark will tarnish the goodwill symbolized by Opposer's FLAVIA Marks.

32. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer, and this will tarnish Opposer's reputation and goodwill.

WHEREFORE, Opposer prays that the Board sustain this opposition and deny registration of the mark identified in Applicant's application.

Dated:

June 6, 2008

By:

MARS, INCORPORATED


Cristina A. Carvalho

Ross Q. Panko

Arent Fox LLP

1050 Connecticut Avenue, N.W.

Washington, D.C. 20036

(202) 857-6000

*Attorneys for Opposer
Mars, Incorporated*

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,846,869

Registered July 26, 1994

**TRADEMARK
PRINCIPAL REGISTER**

FLAVIA

**MARS G.B. LIMITED (UNITED KINGDOM
CORPORATION)
3D DUNDEE ROAD
SLOUGH, BERKSHIRE SL1 4LG, ENGLAND**

**FOR: TEA, COCOA, SUGAR, RICE, PASTA,
HOT CHOCOLATE; MIXTURES OF COFFEE,
AND COFFEE EXTRACTS USED AS FLAVOR-
ING; CHICORY AND CHICORY MIXTURES,**

**ALL FOR USE AS SUBSTITUTES FOR
COFFEE, IN CLASS 30 (U.S. CL. 46).**

**OWNER OF UNITED KINGDOM REG. NO.
A1190416, DATED 2-14-1983, EXPIRES
2-14-2004.**

SER. NO. 74-298,076, FILED 7-27-1992.

AVALYN PITTS, EXAMINING ATTORNEY

Int. Cl.: 11

Prior U.S. Cls.: 13, 21, 23, 31, and 34

Reg. No. 2,168,427

United States Patent and Trademark Office

Registered June 23, 1998

**TRADEMARK
PRINCIPAL REGISTER**

FLAVIA

**MARS, INCORPORATED (DELAWARE CORPORATION)
6885 ELM STREET
MCLEAN, VA 221013883**

**FIRST USE 9-0-1995; IN COMMERCE
9-0-1995.**

**OWNER OF U.S. REG. NOS. 1,583,373 AND
1,846,869.**

**FOR: ELECTRIC COFFEE, TEA, AND HOT
CHOCOLATE MAKERS FOR COMMERCIAL
USE, IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND
34).**

SN 75-185,115, FILED 10-8-1996.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,584,957

Registered June 25, 2002

**TRADEMARK
PRINCIPAL REGISTER**



MARS, INCORPORATED (DELAWARE COR-
PORATION)
6885 ELM STREET
MCLEAN, VA 221013883

OWNER OF U.S. REG. NOS. 1,846,869, 2,204,572
AND OTHERS.

FOR: TEA, IN CLASS 30 (U.S. CL. 46).

SER. NO. 76-227,125, FILED 3-20-2001.

FIRST USE 8-0-2000; IN COMMERCE 8-0-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,113,909

Registered July 11, 2006

**TRADEMARK
PRINCIPAL REGISTER**



MARS, INCORPORATED (DELAWARE COR-
PORATION)
6885 ELM STREET
MC LEAN, VA 221013883

OWNER OF U.S. REG. NOS. 1,846,869, 2,584,957,
AND 2,623,824.

FOR: COFFEE, TEA, HOT CHOCOLATE, IN
CLASS 30 (U.S. CL. 46).

SER. NO. 78-543,428, FILED 1-6-2005.

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

RICHARD A. STRASER, EXAMINING ATTORNEY

Int. Cl.: 11

Prior U.S. Cls.: 13, 21, 23, 31, and 34

United States Patent and Trademark Office

Reg. No. 3,178,667

Registered Nov. 28, 2006

**TRADEMARK
PRINCIPAL REGISTER**

FLAVIA FUSION

MARS, INCORPORATED (DELAWARE CORPORATION)

6885 ELM STREET

NEW YORK, NY 22101

FOR: ELECTRIC COFFEE, TEA, AND HOT CHOCOLATE MAKERS, IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

FIRST USE 9-0-2005; IN COMMERCE 9-0-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,846,869 AND 2,168,427.

SN 78-977,583, FILED 3-17-2005.

SANJEEV VOHRA, EXAMINING ATTORNEY

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Record 1 out of 1[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**FLAVIA PEPPERMINT COOL**

Word Mark	FLAVIA PEPPERMINT COOL
Goods and Services	IC 030. US 046. G & S: Tea
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77036640
Filing Date	November 3, 2006
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	March 27, 2007
Owner	(APPLICANT) Mars, Incorporated CORPORATION DELAWARE 6885 Elm Street McLean VIRGINIA 221013883
Attorney of Record	Cristina A. Carvalho
Prior Registrations	1846869;2584957;2623824;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PEPPERMINT" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Serial Number: 77036640 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

FLAVIA PEPPERMINT COOL

(words only): FLAVIA PEPPERMINT COOL

Standard Character claim: Yes

Current Status: A request for the second extension of time to file a statement of use has been granted.

Date of Status: 2008-06-03

Filing Date: 2006-11-03

The Notice of Allowance Date is: 2007-06-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 104

Attorney Assigned:
WILKE JOHN

Current Location: 700 -Intent To Use Section

Date In Location: 2007-06-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Mars, Incorporated

Address:

Mars, Incorporated
6885 Elm Street
McLean, VA 221013883
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 030
Class Status: Active
Tea
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "PEPPERMINT"

Prior Registration Number(s):
1846869
2584957
2623824

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-06-03 - Extension 2 granted

2008-06-03 - Extension 2 filed

2008-06-03 - TEAS Extension Received

2007-08-07 - Extension 1 granted

2007-08-07 - Extension 1 filed

2007-08-07 - TEAS Extension Received

2007-06-19 - Notice of allowance - mailed

2007-03-27 - Published for opposition

2007-03-07 - Notice of publication

2007-02-10 - Law Office Publication Review Completed

2007-02-10 - Assigned To LIE

2007-01-09 - Approved for Pub - Principal Register (Initial exam)

2007-01-09 - Examiner's Amendment Entered

2007-01-09 - Examiners amendment e-mailed

2007-01-09 - Examiners Amendment -Written

2007-01-04 - Assigned To Examiner

2006-11-08 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Cristina A. Carvalho

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WASHINGTON DC 20036-5339

Phone Number: 202-857-6000

Fax Number: 202-857-6395

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FLAVIA CREATION

Word Mark	FLAVIA CREATION
Goods and Services	IC 011. US 013 021 023 031 034. G & S: electric coffee, tea and hot chocolate makers
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77246316
Filing Date	August 3, 2007
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	November 27, 2007
Owner	(APPLICANT) Mars, Incorporated CORPORATION DELAWARE 6885 Elm Street McLean VIRGINIA 221013883
Attorney of Record	Cristina A. Carvalho
Prior Registrations	1846869;2168427;3178667;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Serial Number: 77246316 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

FLAVIA CREATION

(words only): FLAVIA CREATION

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2008-02-19

Filing Date: 2007-08-03

The Notice of Allowance Date is: 2008-02-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 109

Attorney Assigned:
THOMPSON HEATHER

Current Location: 700 -Intent To Use Section

Date In Location: 2008-02-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Mars, Incorporated

Address:

Mars, Incorporated
6885 Elm Street
McLean, VA 221013883
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 011
Class Status: Active
electric coffee, tea and hot chocolate makers
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):
1846869
2168427
3178667

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-02-19 - Notice of allowance - mailed

2007-11-27 - Published for opposition

2007-11-07 - Notice of publication

2007-10-25 - Law Office Publication Review Completed

2007-10-25 - Assigned To LIE

2007-09-24 - Approved for Pub - Principal Register (Initial exam)

2007-09-24 - Examiner's Amendment Entered

2007-09-24 - Notification Of Examiners Amendment E-Mailed

2007-09-24 - Examiners amendment e-mailed

2007-09-24 - Examiners Amendment - Written

2007-09-22 - Assigned To Examiner

2007-08-07 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Cristina A. Carvalho

Correspondent

CRISTINA A. CARVALHO

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1050 CONNECTICUT AVENUE NW

WASHINGTON, DC 20036-5339

Phone Number: 202-857-6000

Fax Number: 202-857-6395



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Word Mark	FLAVIA THINK FRESH!
Goods and Services	IC 011. US 013 021 023 031 034. G & S: electric coffee, tea and hot chocolate makers
	IC 021. US 002 013 023 029 030 033 040 050. G & S: cups
	IC 030. US 046. G & S: coffee, tea and hot chocolate
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77483668
Filing Date	May 27, 2008
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Mars, Incorporated CORPORATION DELAWARE 6885 Elm Street McLean VIRGINIA 221013883
Attorney of Record	Cristina A. Carvalho
Prior Registrations	1846869;2168427;2204572;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-06-05 14:35:10 ET

Serial Number: 77483668 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

FLAVIA THINK FRESH!

(words only): FLAVIA THINK FRESH!

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2008-06-04

Filing Date: 2008-05-27

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2008-06-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Mars, Incorporated

Address:

Mars, Incorporated
6885 Elm Street

McLean, VA 221013883

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 011

Class Status: Active

electric coffee, tea and hot chocolate makers

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 021

Class Status: Active

cups

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 030

Class Status: Active

coffee, tea and hot chocolate

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

1846869

2168427

2204572

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-05-31 - Notice Of Pseudo Mark Mailed

2008-05-30 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Cristina A. Carvalho

Correspondent

CRISTINA A. CARVALHO

ARENT FOX LLP

1050 CONNECTICUT AVE NW

WASHINGTON, DC 20036-5303

Phone Number: 202-857-6000

Fax Number: 202-857-6395

Panko, Ross

From: teas@uspto.gov
Sent: Tuesday, June 03, 2008 12:08 PM
To: TMDocket; Carvalho, Cristina; Panko, Ross; Booth, Heather
Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77489460

MARK: FLAVIA (stylized and/or with design)
 The literal element of the mark consists of FLAVIA.
 The applicant is not claiming color as a feature of the mark.

We have received your application and assigned serial number '77489460' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. **In approximately 4-5 months, your application will be assigned to an examining attorney; however, the critical date for determining registrability is your *filing date*, NOT the actual examination date. You will not receive any further USPTO communications until examination.** At this point, your mark is not registered it is only a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months, and even longer depending on many factors, e.g., the correctness of the original filing, or the type of application filed.

If you discover an error in the application data, you may file a Preliminary Amendment, stating your proposed correction, at <http://www.uspto.gov/teas/eTEASpageB2.htm>. Do **not** submit any proposed amendment to TEAS@uspto.gov, because the technical team cannot make **any** changes to already-filed data. **NOTE:** You cannot file a Preliminary Amendment until at least 15 days after the initial filing of the application. Prior to that time, the serial number will not appear in the USPTO database (even though the number was assigned at the time of filing), preventing the uploading of new data. If you submit a Preliminary Amendment, the acceptability of that amendment will not be determined until regular examination begins; i.e., the assigned examining attorney will decide at that time whether the change proposed in the amendment is permissible--**not** all errors may be corrected. *E.g.*, if you submitted the wrong mark, if the proposed correction would be considered a material alteration to your original filing, this will not be accepted. Unfortunately, your only recourse in that event is to re-file.

Since you have already submitted your application, do **not** contact TEAS@uspto.gov to request cancellation. The USPTO will **not** cancel the filing or refund your fee, unless the application does not meet minimum filing requirements; i.e., if the USPTO later determines that no filing date was justified, we will return your submission, and refund the filing fee. You could then, if possible, cure the deficiency, and re-file the application. Otherwise, the fee is a processing fee, which we do **not** refund, even if we cannot issue a registration after our substantive review. The only way to "cancel" an application is to file an Express Abandonment, at <http://www.uspto.gov/teas/eTEASpageF.htm>, waiting at least 15 days after the initial filing; however, you would not receive a fee refund under those circumstances.

NOTE: The only "exception" to the above is if you inadvertently file duplicate applications, due to a technical glitch; *i.e.*, if you believe that the first filing did not go through, and immediately file again, only to learn later that *both* filings were successful, then the support team at TEAS@uspto.gov can mis-assign and refund one of the filings. This must be due to a technical problem (which we will independently verify), and not a mere misunderstanding or mistake.

NOTE: To check status, please use <http://tarr.uspto.gov>. Do not submit status requests to TEAS@uspto.gov, as that mailbox is only for technical assistance. We recommend that you check

status at the 6-month point, and *every two months thereafter* to ensure that you know of any action that the Office may have issued. Failure to respond timely to an action will result in abandonment of your application. All incoming and outgoing correspondence can be viewed at <http://portal.uspto.gov/external/portal/tow>. If your status check reveals an action has issued, but you did not receive it, please immediately check the on-line site to view the action; filing deadlines are **not** extended due to failures to receive USPTO mailings.

APPLICATION DATA: Trademark/Service Mark Application, Principal Register

The applicant, Mars, Incorporated, a corporation of Delaware, having an address of 6885 Elm Street, McLean, Virginia, United States, 22101-3883, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 011: electric coffee, tea and hot chocolate makers

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 021: cups

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 030: coffee, tea and hot chocolate

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant claims ownership of U.S. Registration Number(s) 1846869, 2204572, 2168427, and others.

The applicant hereby appoints Cristina A. Carvalho and Ross Q. Panko of Arent Fox LLP, TM Docket, 1050 Connecticut Avenue, NW, Washington, District of Columbia, United States, 20036-5339 to submit this application on behalf of the applicant. The attorney docket/reference number is FLAVIA DEVICE 028881.00002.

Correspondence Information: Cristina A. Carvalho

TM Docket

1050 Connecticut Avenue, NW

Washington, District of Columbia 20036-5339

202-857-6000(phone)

202-857-6395(fax)

tmdocket@arentfox.com (authorized)

A fee payment in the amount of \$975 has been submitted with the application, representing payment for 3 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Thank you,

The TEAS support team

Tue Jun 03 12:07:51 EDT 2008

STAMP: USPTO/BAS-204.4.75.35-20080603120751477261-77489460-
400add0c3b882dc242ba140683e91de2b-CC-6433-20080603120132052891

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Notice of Opposition to Application Serial No. 77/314,705 has been served upon Applicant Najaro Inc., 20261 Paseo del Prado, Walnut, California 91789 this 6th day of June 2008, marked first-class mail, postage prepaid.

A handwritten signature in black ink, appearing to read 'R. Panko', is written over a horizontal line.

Ross Q. Panko, Esq.
ARENT FOX LLP
1050 Connecticut Avenue, NW
Washington, DC 20036